

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SBC Pacific
Bell Telephone Company (U 1001 C), a
Corporation, for Authority to Categorize Local
DA Service as a Category III Service.

Application 02-07-050
(Filed July 31, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) filed by Greenlining Institute and Latino Issues Forum (Greenlining/LIF) on November 15, 2002. This ruling addresses the requirements of the Pub. Util. Code, Article 5, § 1804. All statutory references are to the Pub. Util. Code. In consultation with the Assigned Commissioner, I find that Greenlining/LIF is eligible to request compensation in this proceeding.

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The first prehearing conference (PHC) in this proceeding was held on November 19, 2002. Although Greenlining/LIF’s NOI was filed earlier than called for by the statute, I nevertheless treat it as timely filed, since the clear purpose of the statute is to set an outside for the filing of the notice and no one is disadvantaged by the earlier filing.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the

intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied.

Greenlining/LIF meets the requirements of the latter definition of customer.

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Greenlining/LIF makes its showing of significant financial hardship at this time. Section 1802(g) defines “significant financial hardship:”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

Greenlining/LIF meets the latter definition of customer as defined in § 1802(b), thus the comparison standard applies.¹ Greenlining and its individual

¹ Greenlining/LIF estimate that LIF’s members represent a constituency that is divided 85%-15% between residential and small business customers, respectively, and Greenlining’s split is approximately 75%-25%. By-laws for both Greenlining/LIF are attached to a separate NOI filed March 4, 1999, in A. 98-12-005.

coalition members represent minority, low-income, inner city and other vulnerable communities. LIF is a separate 501(c)(3) organization representing the interests of Latinos. Thus Greenlining/LIF is organized to represent and advocate the interests of various interest groups who are customers of electric, gas, water, and telephone utilities in California. While the Commission's Office of Ratepayer Advocates (ORA) represents and must balance the interests of all ratepayers, Greenlining/LIF represents the specific interests described above, ratepayers who may not otherwise be adequately represented in this proceeding. Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

A rebuttable presumption of eligibility exists for Greenlining/LIF. A finding of significant financial hardship was determined in Decision (D.) 02-07-030. The applicants to this proceeding made their initial filings in October 2002, within one year of this finding. Therefore, the rebuttable presumption created in

D.02-07-030 is applicable. In addition, the cost of Greenlining/LIF's participation in Commission proceedings substantially outweighs the benefit to an individual customer it represents. Greenlining/LIF's members are customers whose individual interests in this proceeding are small relative to the costs of participation. A finding of significant financial hardship in no way ensures compensation (§ 1804(b)(2)).

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Greenlining/LIF has reviewed the applications,

served a PHC Statement for the first PHC on November 19, 2002, and attended the November 19, 2002 first PHC. Greenlining/LIF states in its PHC Statement that their central issues relate to the cost and availability of directory assistance services to low income and minority language customers. Greenlining/LIF states that they will continue to coordinate its efforts with other intervenors in order to minimize duplication of effort.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Greenlining/LIF estimates a total projected budget of \$180,750 for their participation based on proposed hourly rates that will be addressed in its Request for Compensation. The presentation of their estimate below should in no way whatsoever be construed as ruling on its reasonableness of scope, hourly compensation rates, or recoverability of the various costs.

Greenlining/LIF Itemized Estimate

Professional fees

Robert Gnaizda	(100 hours @ \$410/hour)	\$ 41,000
Susan E. Brown	(50 hours @ \$325/hour)	\$ 16,250
Itzel Berrio	(200 hours @ \$310/hour)	\$ 62,000

Expert Fees

John C. Gamboa	(100 hours @ \$250/hour)	\$ 25,000
Others		\$ 27,500

Other Costs

Postage, photocopies, deliveries, supplies, phone	\$ 3,000
Travel	\$ 250
Deposition transcripts	\$ 2,000
Paralegals (50 hours @ \$75/hour)	\$ 3,750
Total	<u>\$180,750</u>

Therefore, **IT IS RULED** that:

1. Greenlining Institute and Latino Issues Forum, (Greenlining/LIF) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and Greenlining/LIF is found eligible for compensation in this proceeding.

2. Greenlining/LIF are customers as that term is defined in § 1802(b) and both are groups or organizations that are authorized by their bylaws or articles of incorporation to represent the interests of represent Latino, minority, low-income, inner city and other vulnerable communities.

3. A finding of eligibility in no way assures compensation.

4. Greenlining/LIF shall make every effort to reduce and avoid duplication of contribution.

Dated March 25, 2003, at San Francisco, California.

/s/ Karl J. Bemesderfer

Karl J. Bemesderfer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated March 25, 2003, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.